

## **Part III**

### **Administrative, Procedural, and Miscellaneous**

26 CFR 601.105: Examination of returns and claims for refund, credit or abatement; determination of correct tax liability.

#### **Rev. Proc. 2002-30**

### **SECTION 1. PURPOSE**

This revenue procedure provides for a pilot program that will test whether the process for issuing Technical Advice Memoranda (TAMs) can be streamlined. The new advice will be known as a Technical Expedited Advice Memorandum (TEAM). During the TEAM pilot program, only issues under the jurisdiction of the Associate Chief Counsel (Income Tax & Accounting) will be eligible for a TEAM.

The purpose of the new TEAM pilot program is to expedite certain aspects of the TAM process and to eliminate certain requirements (taxpayer and field agreement on facts) that may delay or frustrate the process. Accordingly, the Office of Chief Counsel will provide an answer even if the taxpayer and the field disagree on the facts. The Office of Chief Counsel, in appropriate circumstances, may issue two separate answers: one based on the field's factual submission and the other based on the taxpayer's.

If the TEAM pilot program is successful, the Office of Chief Counsel expects to expand it to cover other types of issues and all Associate offices. The program also may be made permanent in Rev. Proc. 2003-2 or a subsequent annual revenue procedure. To that end, comments from taxpayers and practitioners regarding the TEAM pilot program are solicited and may be mailed to:

Internal Revenue Service  
CC:ITA:RU (RP-124153-02)  
Room 5226  
POB 7604  
Ben Franklin Station  
Washington, DC 20044

Attn: A. Lawan Jackson

Submissions may also be delivered Monday through Friday between the hours of 8 a.m. and 5 p.m to CC:ITA:RU (RP-124153-02), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the "Tax Regs" option on the IRS Home Page, or by submitting comments directly to the IRS Internet site: [http://www.irs.gov/prod/tax\\_regs/comments/html](http://www.irs.gov/prod/tax_regs/comments/html).

## **SECTION 2. EFFECT OF A TEAM**

A TEAM issued under this revenue procedure will have the same force and legal effect as a TAM requested under Rev. Proc. 2002-2, except as described in sections 8, 10, and 11 of this revenue procedure. Therefore, the field must process the taxpayer's case on the basis of the conclusions in the TEAM, subject to the conditions and limitations described in Rev. Proc. 2002-2, and sections 8, 10, and 11 of this revenue procedure.

## **SECTION 3. DEFINITIONS**

For purposes of this revenue procedure--

- (1) The term "taxpayer" includes all persons subject to any provision of the Internal Revenue Code (including issuers of section 103 obligations) and, when appropriate, their representatives;
- (2) The term "Associate" means the Associate Chief Counsel (Income Tax & Accounting);
- (3) The term "field" refers to field counsel and exam and appeals personnel;
- (4) The term "field counsel" refers to any attorney with the Office of Chief Counsel who is not part of the national office or Division Counsel Headquarters;
- (5) The term "director" refers to the Director, Field Operations, LBSP; the Territory Manager, Field Compliance, SB/SE; or the Director, Compliance, W&I, as appropriate, and their respective offices; and
- (6) The term "area director, appeals" refers to the Area Director, Appeals LBSP, or the Area Director, Appeals, General Program, as appropriate.

## **SECTION 4. SCOPE**

The TEAM pilot program is limited to TAM requests originating during the examination or appeals process that are submitted to the Associate Chief Counsel (Income Tax & Accounting). All TAM requests with issues under the jurisdiction of the Associate will be eligible for the TEAM procedures, except for requests that require coordination outside of the Associate's office. If the request requires coordination outside of the Associate's office, the TAM procedures set forth in Rev. Proc. 2002-2 will apply. During the pendency of the TEAM pilot program, all TAM requests to the Associate (whether or not eligible for the pilot program) must be submitted through the presubmission procedures set forth in section 6 of this revenue procedure. TEAM treatment will be available only after the taxpayer, the field and the Associate agree that such treatment is appropriate following the presubmission conference described in section 6.

## **SECTION 5. WHO IS RESPONSIBLE FOR REQUESTING A TEAM?**

**Requests for a TEAM.** A request for a TEAM can originate with the taxpayer, exam or appeals personnel, or field counsel. All requests for a TEAM must be submitted through the supervisory chain for exam or appeals and must be approved by the director or equivalent official in the respective operating divisions or by the area director, appeals (or by an official authorized to act on their behalf) before submission to the Associate. If the director or equivalent official declines to approve the request, then the denial can be appealed to the Division Commissioner for that Operating Division or to the Deputy Director, Appeals, General Program or Deputy Director, Appeals, LBSP.

**Taxpayer initiated request.** While a case is under the jurisdiction of a director or area director, appeals, a taxpayer may make a written or oral request to the examining agent or appeals officer that an issue be referred to the Associate for a TEAM.

**Field counsel initiated request.** Exam or appeals personnel can request advice from field counsel on issues involved in cases under their jurisdiction. If, during the discussion of an issue with an examining agent or appeals officer, field counsel believes an issue warrants consideration as a TEAM, then field counsel may make a written or oral request to the examining agent or appeals officer that the issue be referred to the Associate for a TEAM.

**Resolution of conflicts over requests for a TEAM.** If, after considering a request by the taxpayer or field counsel that an issue be submitted for a TEAM, the examining agent or appeals officer disagrees with the request, the taxpayer or the field counsel may raise the request through the examining agent's or the appeals officer's supervisory chain.

## **SECTION 6. HOW ARE PRESUBMISSION CONFERENCES SCHEDULED?**

Field counsel will work closely with the examining agents or appeals officers and the taxpayer in developing the case for a TEAM and in preparing for the presubmission conference. The request for a presubmission conference must be made by FAX to the Associate's office **at 202-622-6316**, and must be confirmed in writing by the director or area director, appeals. The receipt of the FAX will be confirmed by the Associate office within one business day. Because the presubmission conference shall involve the taxpayer, as set forth in Rev. Proc. 2002-2, coordination of the request with the taxpayer must begin as soon as reasonably possible after the oral request. Additionally, the field personnel and the taxpayer should agree on what materials to forward to the Associate's office to assist in deciding whether TEAM procedures are appropriate.

Within 5 calendar days of receiving the request, the assigned branch within the Associate's office will contact the field office to schedule the conference. The conference will be held within 15 calendar days of the assigned branch's call to the field office and will be held by telephone, unless the parties specifically request a meeting in person. In no event will a request for an in-person presubmission conference be allowed to delay the conference beyond the 15-day period. The presubmission materials must be received by the assigned branch in the Associate's office no later than 5 calendar days prior to the conference. In order to obtain the protection of taxpayer information offered by the Chief Counsel Intranet "firewall," the presubmission materials shall be electronically transmitted by field counsel to the **CRU-TEAM** e-mail address. To the extent that supporting materials cannot reasonably be submitted, such materials should be sent by FAX, express mail, or private delivery service to avoid any delays in regular mail to the Associate's office.

During the presubmission conference, the parties should determine whether the issue is appropriate for a TEAM, and how the issue should be framed. The participants from the Associate's office will explain the TEAM procedures and the expedited time frames involved. If all parties agree that the TEAM process is desirable, then the request will be processed subject to the TEAM pilot procedures. The parties also should agree on the background documents necessary for the TEAM, and when and how the parties will submit those documents to the Associate.

If the parties do not agree that the TEAM process is appropriate for the issue, the standard TAM procedures of Rev. Proc. 2002-2 may be used.

## **SECTION 7. WHAT MUST BE INCLUDED IN THE REQUEST FOR A TEAM?**

In general, the same procedures should be used for preparing a TEAM request that are used for preparing a TAM request, with the following modifications to Rev. Proc. 2002-2 to expedite the process and to articulate procedures for the TEAM pilot

program:

**Factual statements.** The field, with the assistance of field counsel, will prepare a factual statement. The taxpayer will have 10 calendar days to respond to the field office's facts. If the taxpayer and the field disagree, the parties will have 10 calendar days to attempt to resolve the disagreements. Within 5 calendar days of the expiration of the 10-day period or the day that factual agreement is reached, whichever is earliest, the TEAM request will be forwarded to the Associate. If there is no agreement on the facts, both sets of facts will be forwarded to the Associate. The field, with the assistance of field counsel, will prepare a memorandum highlighting the material factual differences, which memorandum will be provided to the taxpayer.

**Submission of documents.** All documents will be electronically transmitted by field counsel (followed by hard copy upon the request of the Associate) to the **CRU:TEAM** e-mail address. Additional or supporting documents will be sent by FAX, express mail or private delivery service. The field and the taxpayer are encouraged to provide electronic versions of a proposed TEAM containing the taxpayer's deletions and legends for the Associate's use.

## **SECTION 8. HOW ARE REQUESTS HANDLED?**

If, at the outset, the reviewing branch chief in the Associate's office determines that general guidance should be published regarding the issue presented, the branch chief will immediately notify the Associate. The reviewing branch chief will attempt to make this determination and recommendation as soon as possible, which may occur during the presubmission conference. The criteria for this determination should include whether the issue has a broad application to similarly situated taxpayers or an industry, or resolution of the issue is important to a clear understanding of the tax laws. If the Associate, in consultation with Division Counsel and the Operating Division, agrees that general guidance is desirable, an expedited guidance project will be initiated. The Associate, in consultation with Division Counsel and the Operating Division, also will determine the appropriate resolution of the TEAM request, i.e., whether it may be issued in advance of the general guidance project or must await the publication of guidance. In general, except where policy issues and concerns regarding proper administration of the tax laws require otherwise, the TEAM will be issued in advance of the published guidance.

Within 5 calendar days of the receipt of the TEAM request, the assigned attorney in the Associate's office will contact the field office and the field counsel to confirm the receipt of the request for advice. The assigned Associate attorney and reviewer should also evaluate the issue(s) presented in the TEAM request. If, notwithstanding the presubmission discussion, the Associate concludes that the issue is too complex or otherwise impractical to resolve in the time frames provided below, the Associate may

submit a memorandum to the Chief Counsel requesting that the case be excluded from the TEAM process and be treated as a TAM under Rev. Proc. 2002-2. The Associate must discuss this request with both the field and the taxpayer and reflect their views in the memorandum to the Chief Counsel.

Within 20 calendar days of receipt of the TEAM request, the assigned branch in the Associate's office will analyze the facts and offer the taxpayer and the field a conference of right, which will be scheduled for a date within 10 calendar days of the date of the offer for the conference. The conference will be conducted by telephone, unless the taxpayer or the field requests that the conference be held in-person. In no event will the conference be delayed to provide an in person conference rather than a telephone conference.

Following the conference, the taxpayer and the field will have 15 calendar days to provide any supplemental materials. No further conferences will be held. The TEAM will be issued no later than 15 calendar days after the expiration of the 15-day period for supplemental materials.

If two sets of facts are provided to the Associate (i.e., the parties were unable to reach agreement on the facts), the following procedure will be used: If the Associate would rule the same way on either set of facts, a TEAM will be issued, which will note that the factual disagreement is immaterial. If the Associate would rule differently based on which specific set of facts is considered, then a TEAM will be issued describing the resolution of the issue based on each set of facts.

If the TEAM provides alternate responses based on separate sets of facts, the field will not be required to process the case on the basis of the conclusions in the TEAM, as required by section 17.01 of Rev. Proc. 2002-2 in the case of a TAM.

## **SECTION 9. ISSUANCE OF A TEAM**

The Associate will attempt to issue all TEAMs to the field within 60 calendar days of receipt. The Associate will provide the field with the TEAM at the earliest possible date (whether the proposed TEAM is favorable or adverse, in whole or in part, to the taxpayer). The Associate will not provide the taxpayer with the TEAM or advise the taxpayer of a proposed or final conclusion until the Associate has considered a request for reconsideration under section 10 of this revenue procedure or, if no reconsideration is requested, after the expiration of the 30-day period to request reconsideration, whichever occurs later.

## **SECTION 10. RECONSIDERATION OF A TEAM**

The field will have 30 calendar days from issuance to request reconsideration or

the TEAM becomes final and will be released to the taxpayer, as is provided in section 17 of Rev. Proc. 2002-2. The request for reconsideration from the field must come from the director or area director, appeals. The request for reconsideration must describe with specificity the errors in the TEAM analysis and conclusions. Requests for reconsideration should not reargue points raised in the initial request, but should instead focus on points that the TEAM overlooked or misconstrued in the field's arguments in support of their request.

The Associate will consider the field's request for reconsideration and rule on that request within 30 calendar days of receipt. The Associate may request further submissions from the field or the taxpayer, but no additional submissions shall be made in the absence of such a request. If the field does not request reconsideration, the TEAM will take effect at the end of the 30-day period following the issuance of the TEAM to the field. If reconsideration is requested, the TEAM will take effect 5 calendar days after the reconsideration is ruled on.

In the event of a TEAM adverse to the taxpayer, in whole or in part, the taxpayer may request section 7805(b) relief. Such a request will be treated as a separate request subject to the user fee requirements in Rev. Proc. 2002-1. (Similar to section 301.9100 relief.)

## **SECTION 11. EFFECT ON OTHER REVENUE PROCEDURES**

Rev. Proc. 2002-2, 2002-1 I.R.B. 82, is modified by the supplemental procedures in this revenue procedure. If the TEAM provides alternate responses based on separate sets of facts, the field will not be required to process the case on the basis of the conclusions in the TEAM, as required by section 17.01 of Rev. Proc. 2002-2 in the case of a TAM.

## **SECTION 12. EFFECTIVE DATE**

This revenue procedure is effective on the date of publication in the Internal Revenue Bulletin, and the TEAM pilot procedures will remain in effect until the issuance of Rev. Proc. 2003-2.

## **SECTION 13. DRAFTING INFORMATION**

The principal author of this revenue procedure is Susan L. Hartford of the Office of Associate Chief Counsel (Procedure and Administration). For further information regarding this revenue procedure, contact Ms. Hartford at 202-622-4940 (not a toll-free call).